



## 538 Application Checklist

### Section 538 Guaranteed Rural Rental Housing ("538") Loan Program

The 538 application process begins with a preapplication proposal letter to the USDA National Office (see "538 Preapplication Checklist" for guidance). Once the preapplication is selected for processing, the lender submits a complete application to the USDA State Office. A complete application consists of:

#### General:

1. Lender certification. A sample certification is attached as Exhibit A.
2. Application fee of \$2,500, payable to "USDA Rural Development". (This is nonrefundable.)
3. Form RD 3565-1, "Application for Loan and Guarantee (Multi-Family Housing)" – signed by lender & applicant. This form can be obtained online at: <http://rdinit.usda.gov/regs/forms/3565-01.pdf>
4. Form RD 1910-11, "Applicant Certification Federal Collection Policies for Consumer or Commercial Debts" – signed by the applicant. This form can be obtained online at: <http://rdinit.usda.gov/regs/forms/1910-11.pdf>
5. Form AD 1047, "Certification Regarding Debarment, Suspension and other Responsibility Matters" – signed by the applicant. This form can be obtained online at <ftp://ftp.fsa.usda.gov/public/forms/ad1047.pdf>

#### Underwriting:

6. The lender's underwriting narrative & credit memorandum. This should address borrower qualifications & creditworthiness; property evaluation; housing market analysis; rent levels; operating budget; debt coverage (at least 1.15); long-term capital requirements; loan-to-value; return to owner; and long-term outlook for the property.
7. Pro forma operating budget for first year and for typical year.
8. A current appraisal of the property "as improved". A complete summary report in compliance with FIRREA and USPAP. Appraisals should include a preliminary title report and a market study.
9. SAUCE ("Sources & Uses Comprehensive Evaluation") feasibility analysis – disk & hard copy. (The SAUCE spreadsheet can be obtained from USDA.)

#### Loan agreement information:

10. Draft regulatory agreement between borrower & lender. Please note that it must address all of the following issues set for in 7 CFR 3565-H, §3565.351(a). A sample format is attached as Exhibit B.

#### Borrower information:

11. Current, certified financial statements from the applicant entity, general partners, and owners with a >10% ownership interest.
12. Credit reports on the applicant entity and all general partners and owners with a >10% ownership interest.
13. Organizational documents as appropriate for applicant entity type – e.g., partnership agreement, articles of incorporation, by-laws, certificate of good standing, resolution to apply for this loan.  
*If the borrower is a nonprofit, also provide:*
  - a. Tax-exempt ruling from the IRS conferring 501(c)(3) or 501(c)(4) status.
  - b. List of members on Board of Directors.

Additional borrower background information:

14. Form HUD 9832, "Management Entity Profile Form" – signed by the applicant. This form can be obtained online at: [http://www.hudclips.org/sub\\_nonhud/cgi/pdfforms/9832.pdf](http://www.hudclips.org/sub_nonhud/cgi/pdfforms/9832.pdf)
15. Form HUD 2530/RD 1944-37, "Previous Participation Certification" – signed by the applicant. This form can be obtained online at: [http://www.hudclips.org/sub\\_nonhud/html/pdfforms/2530.pdf](http://www.hudclips.org/sub_nonhud/html/pdfforms/2530.pdf) (fillable pdf format)
16. Form 1944-30, "Identity of Interest (IOI) Disclosure Certificate" – signed by the applicant. This form can be obtained online at: <http://rdinit.usda.gov/regs/forms/1944-30.pdf>
17. *If there is any Identity of Interest:* Form 1944-31, "Identity of Interest (IOI) Qualification" – signed by the applicant. This form can be obtained online at: <http://rdinit.usda.gov/regs/forms/1944-31.pdf>

Construction information:

18. Development team information – contact information (including e-mail) on developer, architect, contractor, property manager, attorney, and syndicator.
19. Form RD 1924-13, "Estimate and Certificate of Actual Cost" – signed by the applicant & lender. This form can be obtained online at: <http://rdinit.usda.gov/regs/forms/1924-13.pdf>
20. Plans & specifications – 2 copies. Drawing may be on 11"x17" or 8½"x14" sheets. Plans should show drawing scale.
  - a. Site plan, including contour lines.
  - b. Plot plan, showing buildings, parking, recreation area, accessible units, etc.
  - c. Typical Floor Plans for living units. Plans should indicate room sizes and total square footage of units.
  - d. Typical Exterior Elevations of buildings including materials used.
  - e. Typical building exterior wall section.
  - f. Design development, working plans, construction specifications.
21. *Only if USDA is to guarantee the construction loan:* Form AD 1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion" – signed by third parties. This form can be obtained online at: <http://www.usda.gov/rus/water/ees/englib/pdf/usda1048.pdf>

Environmental information:

22. Form RD 1940-1, "Request for Environmental Information". Please refer to attached Exhibit C for directions on the proper completion of Form RD 1940-1 and for a supplemental environmental information needed. The form can be obtained online at: <http://rdinit.usda.gov/regs/forms/1940-20.pdf>
23. FEMA Form 81-93, "Standard Flood Hazard Determination"
24. Phase I Environmental Site Assessment Report, as prescribed by the American Society for Testing and Materials.

Project management information:

25. Proposed management plan and management agreement.
26. Exhibit A-6 of RD Instruction 1944-E, "Housing Allowances for Utilities and other Public Services", indicating the proposed utility allowance on the project – signed by applicant. Use attached Exhibit D for this purpose.
27. Form HUD 9832, "Affirmative Fair Housing Marketing Plan" – signed by the applicant. This form can be obtained online at: [http://www.hudclips.org/sub\\_nonhud/cgi/pdfforms/935-2.pdf](http://www.hudclips.org/sub_nonhud/cgi/pdfforms/935-2.pdf) (fillable pdf format)

**Exhibit A**

Section 538 Guaranteed Rural Rental Housing Program  
**LENDER CERTIFICATION**

Lender Name: \_\_\_\_\_  
Borrower Name: \_\_\_\_\_  
Project Name: \_\_\_\_\_  
Loan Amount: \_\_\_\_\_

The lender is seeking a Federal loan guarantee on the loan indicated above through the Section 538 Guaranteed Rural Rental Housing (538) Loan Program of the United States Department of Agriculture (USDA). THE LENDER CERTIFIES THE FOLLOWING:

1. The borrower, the project, and the proposed financing meet the lender’s standards for loan making.
2. The information contained in the application file submitted to USDA Rural Development are consistent with the lender’s underwriting and loan making standards.
3. The lender has completed a review of project for which the guarantee is being sought. The lender has reviewed borrower eligibility (including acceptable borrower entity, identity of interest disclosure, and existence of delinquent federal debt), project eligibility (including property requirements, clear title, and necessary local government approval), and project feasibility analysis (including SAUCE analysis, adequacy of initial operating capital, and management systems). All of the lender’s significant findings have been included in the lender’s underwriting narrative submitted with the application.
4. The lender has reviewed the management plan and agreement and confirmed that they are consistent with USDA Rural Development requirements.
5. The lender agrees to make a loan to the borrower for the proposed project subject to the USDA Rural Development’s issuance of a guarantee.

By: \_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Name Typed or Printed)  
\_\_\_\_\_  
(Title)

Date: \_\_\_\_\_

**Exhibit B**Section 538 Guaranteed Rural Rental Housing Program  
**REGULATORY AGREEMENT**

Project Name: \_\_\_\_\_  
 Borrower Name: \_\_\_\_\_  
 Loan Amount: \_\_\_\_\_  
 Date of Loan: \_\_\_\_\_  
 Lender Name: \_\_\_\_\_

This agreement supplements the terms of the above-referenced loan between the borrower and lender which has a Federal loan guarantee through the Section 538 Guaranteed Rural Rental Housing (538) Loan Program of the United States Department of Agriculture (USDA). This agreement sets forth conditions governing the loan and the operation of the rental housing project established in part with the loan.

In consideration of the above-referenced 538 loan, the borrower and lender agree to comply with all of the following so long as any portion of the 538 loan is outstanding:

1. Single asset entity. The borrower will operate as a single asset ownership entity unless otherwise approved in writing by the Agency
2. Role of the Agency. The Agency (USDA Rural Development and its successors) is not a party to this agreement, but the Agency may assume the role of the lender if necessary to force borrower compliance with the agreement. In the case where the Agency assumes the property in the role of mortgagee-in-possession, the regulatory agreement will remain in force at the Agency's sole discretion.
3. Preservation of affordable housing and use restriction. The borrower will maintain the project as affordable housing in accordance with the purposes and for the duration defined in 7 CFR Part 3565, subpart E. During the period of the guarantee, owners are prohibited from using the housing or related facilities for any purpose other than an approved program purpose. For the period of the original term of the guaranteed loan, the housing must remain available for occupancy by low and moderate income households, in accordance with 7 CFR Part 3565, subpart E. The restriction will apply unless the Agency waives the applicability of this requirement.
4. Payments. The borrower will make all payments due under the note and to the required escrow and reserve accounts for future capital needs.
5. Maintenance. The borrower will maintain the project in good physical and financial condition at all times.
6. Insurance. The borrower will obtain and maintain property insurance and any other insurance coverage required to protect the security. At loan closing, the borrower will provide the lender with documentary evidence that Agency insurance requirements have been met. The borrower will maintain insurance in accordance with Agency requirements until the loan is repaid, and the lender must be named as the insurance policy's beneficiary.
7. Financial records. The borrower will maintain complete project books and financial records. At a minimum, the borrower will obtain, on an annual basis, an audited annual financial statement on the project conducted in accordance with Generally Accepted Account Practices. This audited annual financial statement will be provided to the Agency and the lender within ninety days of the end of the project's fiscal year.
8. Federal review. The borrower will make project books and financial records available for review by the Agency, USDA Office of Inspector General, General Accounting Office, and Department of Justice, or their representatives or successors upon appropriate notification.
9. Affirmative fair housing marketing. The borrower will prepare and comply with an Affirmative Fair Housing Marketing Plan and all other Fair Housing requirements.
10. Civil rights. The borrower will comply with civil rights laws affecting Federally assisted multifamily housing programs and the Americans with Disabilities Act.
11. Legal compliance. The borrower will comply with applicable federal, state, and local laws.
12. Management plan. The borrower will provide management satisfactory to the lender and to the Agency and comply with an approved management plan for the project. The lender must approve the borrower's management plan and assure that the borrower is in compliance with Agency standards regarding property management, including the requirements of 7 CFR Part 3565, subpart H.

- 13. Tenant protection and grievance procedures. Tenants in the property are entitled to the grievance and appeal rights contains in 7 CFR part 1955, subpart L or successor regulation. The borrower must inform tenants in writing of these rights.
- 14. Reserve releases. The lender must approve all releases of funds from the reserve and escrow accounts. Security deposit accounts will not be considered a reserve or escrow account.
- 15. Distribution of surplus cash. Prior to the distribution of surplus cash to the owner, the lender must certify that the property is in good financial condition and physical condition and in compliance with the regulatory agreement. Such compliance includes payment of outstanding obligations, debt service, and required finding of reserve and escrow accounts.
- 16. Change of ownership. Any change in ownership, in whole or in part, must be approved by the lender and USDA Rural Development before such change takes effect.
- 17. Transferability. The agreement is transferable from lender to lender in the event that the property or the guarantee is transferred to an Agency approved lender.

The agreement is binding upon the borrower and any of its successors and assigns, as well as upon the lender and any of its successors and assigns, for the duration of the guaranteed loan.

IN WITNESS WHEREOF, the borrower and lender have executed this Agreement.

BORROWER:

LENDER:

By: \_\_\_\_\_  
 (Signature)  
 \_\_\_\_\_  
 (Name Typed or Printed)  
 \_\_\_\_\_  
 (Title)

By: \_\_\_\_\_  
 (Signature)  
 \_\_\_\_\_  
 (Name Typed or Printed)  
 \_\_\_\_\_  
 (Title)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit C**Instructions & Supplement to  
Form RD 1940-20, "Request for Environmental Information"  
for Multi-Family Housing Projects over 25 Units in California

☞ **READ THIS FIRST** before gathering environmental information for USDA.

**Are other Federal funds already committed to this project – e.g. HOME funds?** If so, a NEPA (National Environmental Policy Act) environmental assessment will already have been completed by that Federal agency. USDA can often adopt their NEPA assessment which will save considerable time and effort. Obtain a copy of the NEPA assessment from the committed Federal funder and provide it to USDA. No further environmental submittal will be necessary unless requested by USDA. You can stop here and read no further!

If Federal funds have *not* already been committed to the project, complete Form RD 1940-20 as outlined below. The form itself can be found at: <http://rdinit.usda.gov/regs/forms/1940-20.pdf>

Item 1. If an Environmental Impact Statement has been prepared on the project, provide a copy to USDA. Otherwise, provide detailed answers to all 17 of the narrative questions attached to Form RD 1940-20. *Exception:* On question (8), "Historic/Archeological Properties," respond to question (8)(a), but not (8)(b); instead, follow the directions provided for Item 2 immediately below.

Item 2. Do NOT contact the State Historic Preservation Officer (SHPO)! California USDA has arranged an alternative process for assessing historical and archeological impacts. Instead of contacting SHPO, obtain a report on the project site from the local California Historical Resource Information System (CHRIS) Center and submit it to USDA. (Directions for getting a CHRIS report are provided page 3 below.) An archaeological survey need only be obtained and submitted to USDA if the CHRIS report recommends one.

Item 3. Check the appropriate boxes.

Item 4. Check the appropriate box. If "yes", attach an explanation.

Sign and date the form.

Finally, in addition to completing Form RD 1940-20 as indicated, please provide detailed answers to the supplemental environmental questions on the next page.

**Please attach photos** of the site to be developed and all contiguous parcels in order to give a good visual representation of the project and its context. This helps expedite USDA's review.

*Please provide detailed answers to the following:*

(18) Likely Scope and Impact of Project

- (a) Describe what other developments besides your own are likely to expand or locate in the area because of the project.
- (b) Is this project part of a phased development? If “yes”, explain each phase, the likely timetable, and the likelihood that each of these phases will occur.

(19) Land Use

- (a) Describe any change in land use at the project site.
- (b) Describe what affect there will be on surrounding land uses.
- (c) Describe any zoning restrictions and the project’s consistency with local land use plans.

(20) Human Population

- (a) Discuss whether any people be displaced or relocated by the project and what impacts this will have.
- (b) Discuss how the project will affect nearby residents.
- (c) Discuss if the project will promote growth and what the potential impacts are on the area’s public and community services.
- (d) Discuss the community’s and nearby area’s ability to accommodate any anticipated population increases.

(21) California Environmental Quality Act (CEQA) and Local Planning Approval

- (a) What city or county planning department has jurisdiction over your project – i.e., from which a permit must be obtained? Provide the name and phone number of the contact person there.
- (b) Has the city or county planning department completed their approval of your project?
- (c) Has local government completed a CEQA assessment on the project? Attach a copy of the applicable CEQA findings and their supporting assessment documents:
  - CEQA Categorical Exclusion “Notice of Exemption”
  - CEQA Negative Declaration “Notice of Determination”
  - CEQA Environmental Impact Report (EIR) “Notice of Determination”

**Additional guidance on Item 2 on Form RD 1940-20. Comments of State Historic Preservation Officer.**

Whenever a USDA project involves the development of a previously undisturbed site or affects a structure that is 50 years old, USDA must confirm that no valuable archaeological or historical resources will be harmed. To do this, a report on the project site must be obtained from the California Historical Resources Information System (CHRIS). There are 11 CHRIS centers statewide (see below). They are repositories of archaeological and historical data, so they can evaluate the sensitivity of any site.

County served	Center to contact	County served	Center to contact
Alameda, Colusa, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Yolo	Northwest Information Center Sonoma State University 1303 Maurice Ave. Rohnert Park, CA 94928 (707) 664-0880; fax 664-0890 <a href="mailto:nwic@sonoma.edu">nwic@sonoma.edu</a>	Alpine, Calaveras, Mariposa, Merced, San Joaquin, Stanislaus, Tuolumne	Central California Information Center Department of Anthropology California State University Stanislaus 801 W. Monte Vista Ave. Turlock, CA 95382 (209) 667-3307; fax 667-3324 <a href="mailto:egreatho@toto.csustan.edu">egreatho@toto.csustan.edu</a>
Butte, Glenn, Lassen, Modoc, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity	Northeast Information Center Dept. of Anthropology, Langdon 303 California State University Chico Chico, CA 95929-0400 (530) 898-6256; fax 898-4413 <a href="mailto:neinfoctr@csuchico.edu">neinfoctr@csuchico.edu</a>	Los Angeles, Orange, Ventura	South Central Coastal Information Ctr. Institute of Archaeology - A163 Fowler University of California Los Angeles Los Angeles, CA 90095-1510 (310) 825-1980; fax 206-4723 <a href="mailto:scsic@ucla.edu">scsic@ucla.edu</a>
San Bernardino	San Bernardino Archeological Info Ctr San Bernardino County Museum 2024 Orange Tree Ln. Redlands, CA 92374 (909) 307-2669 x255; fax 307-0689 <a href="mailto:rlaska@sbcm.sbcounty.gov">rlaska@sbcm.sbcounty.gov</a>	Inyo, Mono, Riverside	Eastern Information Center Department of Anthropology University of California Riverside Riverside, CA 92521-0418 (909) 787-5745; fax 787-5409 <a href="mailto:eickw@ucr.ac1.ucr.edu">eickw@ucr.ac1.ucr.edu</a>
San Diego	South Coastal Information Center Social Sciences Research Lab 5500 Campanile Dr. San Diego State University San Diego, CA 92182-4537 (619) 594-5682; fax 594-4483 <a href="mailto:scic@mail.sdsu.edu">scic@mail.sdsu.edu</a>	Imperial	Southeast Information Center Imperial Valley College Desert Museum P.O. Box 430 (mailing address) 11 Frontage Rd. (physical address) Ocotillo, CA 92259 (760) 358-7016; fax 358-7827 <a href="mailto:ivcdm@imperial.cc.ca.us">ivcdm@imperial.cc.ca.us</a>
Fresno, Kern, Kings, Madera, Tulare	Southern San Joaquin Valley Info. Ctr. California State University Bakersfield 9001 Stockdale Hwy. Bakersfield, CA 93311-1099 (661) 664-2289; fax 664-2415 <a href="mailto:abaldwin@csusbak.edu">abaldwin@csusbak.edu</a>	Amador, El Dorado, Nevada, Placer, Sacramento, Yuba	North Central Information Center Department of Anthropology California State University Sacramento 6000 J St. Sacramento, CA 95819-6106 (916) 278-6217; fax 278-5162
San Luis Obispo, Santa Barbara	Central Coast Information Center Department of Anthropology University of California Santa Barbara Santa Barbara, CA 93106 (805) 893-2474; fax 893-8707 <a href="mailto:byoshida@umail.ucsb.edu">byoshida@umail.ucsb.edu</a>		

The CHRIS centers typically charge \$90/hour for their service, which generally takes 1-2 hours. They normally report their findings within 15 working days of receiving a request. For about \$135/hour, they will provide a “rapid response,” within 5 days. (Use of this option is recommended, but not required.) To request a report, supply the center with the following:

1. A letter requesting a “records search” and agreeing to pay for up to 4 hours of search time. Explain that the information is need for a federal loan application.
2. A description of the project, including street address & assessor’s parcel number (APN), focusing on any planned ground disturbance. Be sure to indicate the extent to which previous site disturbance has occurred. If an existing structure is to be demolished or renovated, a photograph and explanation should be included.
3. A detailed location map which will allow the center to pinpoint the site’s location.

**Exhibit D**

Section 538 Guaranteed Rural Rental Housing Program  
**Housing Allowances for Utilities and Other Public Services**  
 (Exhibit A-6 of RD Instruction 1944-E)

Borrower Name: \_\_\_\_\_

Project Name: \_\_\_\_\_

**Proposed Monthly Dollar Allowances for Utilities**

Utility	0-Bedroom	1-Bedroom	2-Bedroom	3-Bedroom	4-Bedroom	5-Bedroom
Electric	\$	\$	\$	\$	\$	\$
Gas						
Propane						
Water						
Sewer						
Trash Collection						
Other:						
Total Allowance Requested	\$	\$	\$	\$	\$	\$

BORROWER:

By: \_\_\_\_\_

(Signature)

\_\_\_\_\_

(Name Typed or Printed)

\_\_\_\_\_

(Title)

Date: \_\_\_\_\_